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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 150903814-5999-02]**

**RIN 0648-XE755**

**Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2016 Winter II Quota**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** NMFS adjusts the 2016 Winter II commercial scup quota. This action complies with Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which established a process to allow the rollover of unused commercial scup quota from the Winter I period to the Winter II period.

**DATES:** Effective November 1, 2016, through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Reid Lichwell, Fishery Management Specialist, (978) 281-9112.

**SUPPLEMENTARY INFORMATION:** NMFS published a final rule in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process to roll over unused Winter I commercial scup quota (January 1 through April 30) to be added to the Winter II period quota (November 1 through December 31). This framework also allows adjustment of the commercial

possession limit for the Winter II period dependent on the amount of quota rolled over from the Winter I period.

For 2016, the initial Winter II quota is 3,262,554 lb (1,480 mt), and the best available landings information indicates that 3,192,389 lb (1,448 mt) remain of the Winter I quota of 9,232,987 lb (4,188 mt). Consistent with the intent of Framework 3, the full amount of unused 2016 Winter I quota would be transferred to Winter II, resulting in a revised 2016 Winter II quota of 6,454,943 lb (2,928 mt). Because the amount transferred is greater than 2,000,000 lb (907 mt), the possession limit per trip will increase from 12,000 lb (5,443 kg) to 18,000 lb (8,165 kg), as outlined in the final rule that established the 2016 specifications, published on December 28, 2015 (80 FR 80689).

### **Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), has determined good cause exists pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it is impracticable and contrary to the public interest. The landings data upon which this action is based are not available on a real-time basis and, consequently, were compiled only a short time before the determination was made that this action is warranted. If implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised; deteriorating weather conditions during the latter part of the fishing year will reduce fishing effort and could prevent the annual quota from being fully harvested.

This would conflict with the agency's legal obligation under the Magnuson-Stevens Fishery Conservation and Management Act to achieve the optimum yield from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery. Moreover, the rollover process and potential changes in trip limits were already outlined in the 2016 to 2018 specifications published December 28, 2015, that were provided for notice and comment rulemaking. No comments were received on either part.

**Authority:** 16 U.S.C. 1801 *et seq.*

**Dated:** August 17, 2016

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Emily H. Menashes,  
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